

The Senate Intelligence Committee . . . had showed a willingness to want to include in their legislation retroactive liability protection for companies that were alleged to have helped the United States in the days after 9/11. Because they were willing to do that, we were willing to show them some of the documents they asked to see.

Mr. President, JAY ROCKEFELLER told me within the past hour that there was no preconceived agreement at all. They wanted to see the document to find out what they should do legislatively.

She says:

But to the extent of anyone else being able to see the documents, I think we will wait and see who else is willing to include that provision in the bill.

I want the record to be very clear that the Judiciary Committee should be able to see those documents. How else can they make a judgment as to what they should do legislatively? They should not have to make some deal with the White House that "we will let you look at these, but we will write the legislation for you." That is wrong. I think it is very clear that the House committees of jurisdiction should also see those documents. It is absolutely wrong for the White House to say, I repeat, that they will let you look at these, but only if you will agree to sign this legislation or you give your approval of the legislation.

We can't do that.

On Friday, the White House Press Secretary said the key documents would be held out to the congressional committees as a prize for anyone willing to commit to a specific legislative path. That is an insult to the American people and to Congress.

I repeat in the most emphatic terms that the administration must turn over these documents to the Senate Judiciary Committee and to the relevant House committees to do their business as they must, and they must do so immediately.

We believe this administration should move forward quickly. I would like to do it before Thanksgiving. Why do I want to do that? This legislation which came out of the Intelligence Committee is good. It strengthens our national security. It provides the Intelligence Committee the tools it needs to go after foreign terrorists and other threats to the American security.

Does this mean the Judiciary Committee cannot improve the legislation? I am confident that perhaps they can. Is the Intelligence Committee's work the know-all and do-all? No. That is why we had joint referral. But it is a good piece of legislation. It gives better protection for America and increases the role of the Foreign Intelligence Surveillance Court. Two, it requires court approval to target U.S. persons overseas. Three, it explicitly prohibits targeting any person reasonably believed to be in the United States. Four, it eliminates ambiguous language on warrantless domestic searches. Five, it states the exclusive means by which electronic surveillance and interception of domestic communications may be conducted.

Also, just as important, other than those five points, it increases oversight and accountability by expanding the requirements in the semiannual report submitted to the congressional Intelligence and Judiciary Committees on intelligence collecting that is authorized by the act. It also requires the head of elements of the Intelligence Committee acting under their authority to conduct yearly audits of intelligence collection. Third, it requires the inspectors general of the Department of Justice and the Intelligence Committee to review the use of the new authority with respect to references to U.S. persons' identities and communications. And it grants limited immunity from potential liability to any telecommunications company that may have assisted the Government in the aftermath of September 11. That is why it is so vitally important that the Judiciary Committee and the respective House committees see what the Intelligence Committee saw without any preconceived arrangements by the White House. Five, it sets forth the procedures so that the Federal courts can review an attorney general certification to determine whether the electronic communication service provider acted within specific orders and in accordance with the certification as directly prescribed by statute. Finally, it sets a 6-year sunset to allow Congress to evaluate the new authority to be carried out, should any of this be changed. That is why we have joint referral, to have the Judiciary Committee take a look at this.

The Intelligence Committee has worked hard to come up with what should be the final legislation that comes to the floor. Finally, the House passes legislation, and we work it out in conference.

We want to move forward. It is important to do that. We acknowledge that. I think it is so wrong that the White House is saying: You can do this but only as we tell you how it can be written; otherwise, we are not going to show you the documents.

That is defenseless on the part of the White House.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be able to speak for 6 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO THE HONORABLE JAMES L. OAKES

Mr. LEAHY. Mr. President, last week, I had a long talk with Mara Williams, the wife of former U.S. Court of Appeals Judge James Oakes. Jim, who had served as Vermont's attorney general, as our Federal district judge, and with distinction as chief judge of the Second Circuit, had died the previous weekend at the age of 83.

Mara told me how the family had been with Jim a few days before he died, and we then talked about the legacy he left.

I spoke of knowing Jim for 40 years, and how I, and my family of lifelong Democrats, had voted for him for attorney general and had hoped he might be our Governor. As it turned out, the country was far better off having him on the Second Circuit Court of Appeals, and would have been even better off had he been elevated to the Supreme Court, a position he would have held with great distinction.

We all knew of Jim's legal mind and great ability, his dedication to public service, his wonderful sense of humor, and his love for his family, but I knew him especially as a man with a great and good conscience.

Jim Oakes epitomized the role of judge as the protector of our fundamental rights. A decade ago he noted that he was a person who "still believe[d] that a federal judge can make a difference and—in cases of extreme necessity where basic rights are being infringed—should make a difference when the rest of our political structure bogs down." This appreciation for the role of judicial independence is something we must admire and remember.

We worked together when he was attorney general and I was State's attorney, and I particularly remember one very difficult and tragic murder case where we were able to forge an unprecedented use of a grand jury to bring about justice when it looked like that would not have been possible. We talked about that as recently as a couple of years ago, but then, with Jim, we could pick up a conversation from where we had left off 6 months before when we had last seen each other.

Fran Lynggaard Hansen quoted his eldest daughter, Cynthia Meketa, as saying:

He had a very high intellect, but he was never a snob. He had ups and downs in his